

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
By: STEPHEN CHA-KIM
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
Tel: (212) 637-2768
Fax: (212) 637-2702
stephen.cha-kim@usdoj.gov

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

No. 22 Civ. 791 (JPO)

UNITED STATES DEPARTMENT OF
STATE,

ANSWER

Defendant.

Defendant the United States Department of State, by and through its attorney, Damian Williams, United States Attorney for the Southern District of New York, answers the complaint on information and belief as follows:

1. Paragraph 1 of the complaint constitutes Plaintiff's characterization of this action, to which no response is required. To the extent a response is deemed required, admit that Plaintiff's action has been brought under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and seeks records from Defendant and aver that Plaintiff has submitted two requests for records to Defendant.

2. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 2.

3. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation in paragraph 3.
4. Paragraph 4 consists of a conclusion of law, to which no response is required.
5. Paragraph 5 consists of a conclusion of law, to which no response is required.
6. Paragraph 6 consists of a conclusion of law, to which no response is required.
7. Paragraph 7 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, admits that Defendant has not to date provided a final response to the FOIA requests that are the subject of this action.
8. Admits the allegation in Paragraph 8.
9. Admits the allegation in Paragraph 9.
10. Admits the allegations in Paragraph 10.
11. Admits the allegation in Paragraph 11.
12. Admits the allegations in Paragraph 12.
13. Admits the allegations in Paragraph 13.
14. Admits the allegation in Paragraph 14.
15. Defendant repeats, realleges, and reincorporates the responses to the allegations in the foregoing paragraphs.
16. Paragraph 16 consists of conclusions of law, to which no response is required.
17. Paragraph 17 consists of conclusions of law, to which no response is required.
18. Paragraph 18 consists of a conclusion of law, to which no response is required.
19. Paragraph 19 consists of a conclusion of law, to which no response is required. To the extent a response is deemed required, denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegation in Paragraph 19.

20. Paragraph 20 consists of a conclusion of law, to which no response is required. To the extent a response is deemed required, denies.

Paragraphs 21-25 constitute Plaintiff's prayer for relief, to which no response is required. To the extent a response is required, denies that Plaintiff is entitled to the relief sought or to any relief.

DEFENSES

Any allegations not specifically admitted, denied, or otherwise answered are hereby denied. For further defenses, Defendant alleges as follows:

First Defense

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

Second Defense

Defendant has not improperly withheld information within the meaning of FOIA.

Third Defense

The Court lacks subject matter jurisdiction over Plaintiff's claims to the extent Plaintiff has failed to exhaust administrative remedies.

Fourth Defense

The Court lacks subject matter jurisdiction over Plaintiff's requests for relief to the extent that they exceed the relief authorized under FOIA. *See* 5 U.S.C. § 552.

Fifth Defense

Defendant has exercised due diligence in processing Plaintiff's FOIA request and exceptional circumstances exist that necessitate additional time for Defendant to process the request. *See* 5 U.S.C. § 552(a)(6)(C).

Defendant may have additional defenses which are not known at this time but which may become known through further proceedings. Accordingly, Defendant reserves the right to assert each and every affirmative or other defense that may be available, including any defenses available pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendant requests judgment dismissing the complaint and granting such other and further relief as this Court deems appropriate, including costs and disbursements.

Dated: New York, New York
March 1, 2022

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
Attorney for Defendant

By: /s/ Stephen Cha-Kim
STEPHEN CHA-KIM
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
Tel: (212) 637-2768
Fax: (212) 637-2702
stephen.cha-kim@usdoj.gov